REMARKS

Claims 1 through 23 are in the application. Claims 1, 3-6, 9, and 19-23 are currently amended; claims 24 and 25 are canceled; and claims 2, 7, 8, and 10-18 remain unchanged from the original versions thereof. Claims 1,19, 20, and 23 are the independent claims herein. Reconsideration and further examination are respectfully requested.

The specification is amended as indicated above to include complete information regarding the cross-reference to related applications section of the specification. Namely, the serial number of the related patent application is now provided.

Claims 1, 3-6, 9, 19, and 20 are amended to clarify that which Applicants which is claimed by Applicants.

No new matter is added to the application as a result of the amendments submitted herewith.

Generally, Applicants disclose systems and methods to facilitate analysis of a commercial mortgage backed security (CMBS) portfolio. In some embodiments, the disclosed methods and systems relate to providing an analysis regarding a desired level of profitability for the CMBS portfolio. In particular, a determination may be made regarding the profitability of an additional mortgage loan to be added to the CMBS portfolio such that a determination or analysis may be made regarding the profitability of the CMBS portfolio as a consequence of including the additional mortgage loan therein. A determination of whether to add the additional mortgage loan to the CMBS portfolio may be based, in some embodiments, on whether the additional mortgage loan contributes to the profitability of the CMBS portfolio.

Claim Rejections Under 35 USC § 103(a)

Claims 1-18 were rejected as being unpatentable over Gould et al, U.S. Patent No. 5,966,700A (hereinafter, Gould) in view of Cwenar, U.S. Patent No. 5,893,079A (hereinafter, Cwenar) under 35 USC 103(a). This rejection is respectfully traversed.

Applicants' claims 1-18 relate to a method to facilitate analysis of a commercial backed security (CMBS) portfolio. The recited method of independent claim 1 provides, inter alia, determining information associated with an additional mortgage loan to be added to the portfolio, including at least one desired profitability value for the additional mortgage loan. Clearly, the claimed method recites and relates to a <u>profitability</u> value for the additional mortgage loan. That is, Applicants' claimed method includes determining a valued related to profitability. For example, Applicants' disclose "[W]hen creating a CMBS portfolio, the value or profitability of a loan that might be added to the portfolio is often of interest" (See published specification, paragraph [0005], ln. 3-5) Applicants also disclose, "[A]ccording to one embodiment, the information associated with the additional mortgage loan includes one or more desire profitability values (or "arbitrage targets") of the additional mortgage loan." (See published specification, paragraph [0043], ln. 1-4)

Contrary to the Office Action's characterization of the cited and relied upon Gould and Cwenar, the Gould/Cwenar combination fails to disclose or suggest Applicants' claimed invention. In particular, the cited and relied upon Gould fails to disclose or suggest, at least, Applicants' claimed determining information associated with an additional mortgage loan to be added to the portfolio, including at least one desired profitability value for the additional mortgage loan.

In contradistinction to Applicants' claimed method, the cited and relied upon Gould does not suggest or disclose determining information associated with an additional mortgage loan to be added to the portfolio, including at least one desired <u>profitability</u> value for the additional mortgage loan. Instead, Gould discloses a management system for <u>allocating risk</u> under a risk allocation agreement (e.g., a Master

Commitment agreement). Gould discloses a system for allocating or dispersing the risk of loss or foreclosure for a mortgage (or mortgage portfolio) between a mortgage originator and a mortgage funding institution based on, for example, credit enhancement data. (See Gould col. 3, ln. 30-col. 4, ln. 2; and col. 4, ln. 40-45)

Gould discloses, "each mortgage loan which qualifies as an investment mortgage by meeting the parameters of the risk allocation agreement will be recorded by the program" (col. 6, ln 12-15); "The data from the loan is gathered by the mortgage originator for credit enhancement analysis in step 302. The credit enhancement data includes all the information required to calculate credit enhancement for specific loans and is classified by several elements such as the borrower, the property, loan amount interest rate, etc." (col. 6, ln. 33-360); "[T]he program 16 calculates a mortgage score according to well known methods. The mortgage score is a value representing the probability that a loan may foreclose." (col. 6, ln. 44-47); and "[T]he mortgage score and other data such as income, FICO, property address, property type, occupancy type, loan purpose, loan type, loan amount, interest rate, loan to value ration, debt ratio, and private mortgage insurance coverage is then input for analysis using the S&P Levels model...The credit enhancement dollar amount is calculated for each specific loan by the S&P level model ...The credit enhancement dollar amount is the expected loss severity applied to the foreclosure frequency which produces the required loss coverage value." (col. 6, ln. 52-64)

Thus, it is clear that Gould discloses a management system for risk sharing of mortgage pools that determines and analyzes risks associated with a mortgage or mortgage portfolio. According to Gould, data associated with a probability of risk of failure or foreclosure related to a particular mortgage is provided and/or determined. Gould does not disclose or suggest the claimed determining information associated with an additional mortgage loan to be added to the portfolio, including at least one desired profitability value for the additional mortgage loan. The information associated with a mortgage in Gould is a risk allocation determination value (i.e., a credit enhancement value), not the claimed at least one profitability value. This is true since the Gould

disclosed enhancement value is used in a risk allocation determination, not for determining a level or measure of profitability.

Furthermore, Applicants respectfully submit that the enhancement value and other risk allocation related values disclosed in Gould do not suggest or provide any motivation for the claimed at least one profitability value of claim 1. That is, since the systems and methods of Gould are clearly and fully concerned with the allocation of risk between a loan originator and a funding institution, there is no suggestion or even appreciation of the claimed at least one profitability value. Gould does not address how much profitability a subject mortgage loan may contribute to a CMBS portfolio but instead relates to the allocation (i.e., division) of the risk of loss/foreclosure for a subject mortgage loan.

Accordingly, Applicants respectfully submit that the cited and relied upon Gould reference does not disclose that for which it was cited and relied upon for disclosing. Thus, combining the disclosure of Gould with the alleged and relied upon "transmitting" of Cwenar fails to render claim 1 obvious.

Therefore, Applicants respectfully submit that claim 1 is patentable over the cited and relied upon Gould and Cwenar under 35 USC 103(a) for at least the reasons discussed above. Furthermore, claims 2-18 depend from claim 1. Applicants respectfully submit that claims 2-18 are patentatble over the cited and relied upon Gould and Cwenar for at least the reasons discussed above regarding claim 1. Accordingly, Applicants request the reconsideration and withdrawal of the rejection of claims 1-18 and the allowance of same.

Claim 19 was rejected as being unpatentable over Gould in view of Cwenar under 35 USC 103(a). This rejection is respectfully traversed.

Claim 19 recites a computer-implemented method to facilitate analysis of a CMBS portfolio. The computer-implemented method of claim 19 states, in relevant part,

> receiving information associated with an additional mortgage loan to be added to the portfolio, including a <u>desired profitability</u> of the additional mortgage loan;
> determining an original <u>profitability</u> of the portfolio;
> calculating a <u>combined profitability</u> of the portfolio and the additional mortgage loan based on the combined category sizes;
> subtracting the original <u>profitability</u> from the combined profitability to determine a <u>profitability</u> of the additional mortgage loan; and
> transmitting to a user terminal via a Web site a calculated loan spread for the additional mortgage loan in accordance with a contribution of the additional mortgage loan to the portfolio, wherein the calculation of the loan spread is an iterative process, comprising:
> determining a trial loan spread for the additional mortgage loan,
> computing a <u>resulting profitability</u> based on a trial spread, and
> adjusting the trial loan spread based on a duration of the additional mortgage loan, wherein said computing and adjusting are repeated until the resulting profitability is within a predetermined range of the desired profitability (emphasis added)

Clearly, claim 19 (similar to claim 1) relates to receiving, determining, calculating and computing various aspects and values of profitability for a CMBS portfolio, an additional mortgage loan, including a combined profitability and a resulting profitability.

Regarding claim 19, Gould was cited and relied upon in the Office Action for disclosing all aspects of the claim except for transmitting a loan spread to a terminal via a Web site. Again, as discussed hereinabove in detail with respect to claim 1, Gould does not relate to or even appear to appreciate the claimed profitability value. Furthermore, Gould fails to disclose or suggest the claimed determining, calculating and computing of various profitability aspects and values.

Additionally, combining the insufficient disclosure of Gould with the alleged and relied upon "transmitting" of Cwenar fails to render claim 1 obvious.

Therefore, Applicants respectfully submit that claim 19 is patentable over the cited and relied upon Gould and Cwenar under 35 USC 103(a) for at least the reasons

discussed above. Accordingly, Applicants request the reconsideration and withdrawal of the rejection of claim 19 and the allowance of same.

Claims 20-22 were rejected as being unpatentable over Gould in view of Cwenar under 35 USC 103(a). This rejection is respectfully traversed.

Claim 20 relates to an apparatus adapted to facilitate analysis of a CMBS portfolio. Claim 20 is worded similar to claim 1 in that it relates to determining information associated with a CMBS portfolio associated with a plurality of mortgage loans, including at least one desired profitability value for an additional mortgage loan.

Again, it is clear that Gould discloses a management system for risk sharing of mortgage pools that determines and analyzes risks associated with a mortgage or mortgage portfolio. The information associated with a mortgage in Gould is a risk allocation determination value (i.e., a credit enhancement value), not the claimed at least one profitability value.

Since the systems and methods of Gould are clearly and fully concerned with the allocation of risk between a loan originator and a funding institution, there is no suggestion or even appreciation of the claimed at least one profitability value.

Accordingly, Applicants respectfully submit that the cited and relied upon Gould reference does not disclose that for which it was cited and relied upon for disclosing. Thus, combining the disclosure of Gould with the alleged and relied upon "transmitting" of Cwenar fails to render claim 20 obvious. Furthermore, claims 21 and 22 depend from claim 20. It is further submitted that claims 21 and 22 are patentable over the cited and relied upon Gould and Cwenar for at least the reasons provided for claim 20.

Therefore, Applicants respectfully submit that claims 20-22 are patentable over the cited and relied upon Gould and Cwenar under 35 USC 103(a) for at least the

reasons discussed above. Accordingly, Applicants request the reconsideration and withdrawal of the rejection of claims 20-22 and the allowance of same.

Claim 23 was rejected as being unpatentable over Gould et al in view of Cwenar. This rejection is respectfully traversed.

Claim 23 relates to a medium storing instructions adapted to be executed by a processor to perform a method of facilitating analysis of a CMBS portfolio. Claim 23 is worded similar to claim 1 in that it relates to determining information associated with a CMBS portfolio associated with a plurality of mortgage loans, including at least one desired profitability value for an additional mortgage loan.

Thus, Applicants respectfully submit that the cited and relied upon Gould reference does not disclose that for which it was cited and relied upon for disclosing and even combining the disclosure of Gould with the alleged and relied upon "transmitting" of Cwenar fails to render claim 20 obvious.

Therefore, Applicants respectfully submits that claim 23 is patentable over the cited and relied upon Gould and Cwenar under 35 USC 103(a) for at least the reasons discussed above regarding claim 1. Accordingly, Applicants request the reconsideration and withdrawal of the rejection of claim 23 and the allowance of same.

Claims 24-25 are rejected as being unpatentable over Gould et al in view of Cwenar. This rejection is moot in view of the cancellation of claims 24-25.

CONCLUSION

Accordingly, Applicants respectfully request allowance of pending claims 1-23. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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